

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of the Office of Financial and Insurance Services

In the matter of:

Enforcement Case No. 06-4278

David Michael Husak, Sr.

Respondent

_____ /

Issued and entered
on December 5, 2006
by Richard D. Lavolette
Chief Deputy Commissioner

ORDER TO CEASE AND DESIST

The Office of Financial and Insurance Services of the Michigan Department of Labor and Economic Growth, pursuant to the Michigan Administrative Procedures Act of 1969, MCL 24.201 *et. seq.*, ("MAPA") and the Michigan Uniform Securities Act, as amended, MCL 451.501 *et. seq.*, ("Act"), and the rules promulgated under the Act, say that:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The staff of the Office of Financial and Insurance Services ("OFIS") alleges that the following facts are true and correct:

1. On or about December 15, 2005, OFIS received a letter the National Association of Securities Dealers concerning Respondent, David Michael Husak, Sr. ("Husak") advertisement offering and/or selling promissory notes, unregistered non-exempt securities.
2. At all pertinent times, Respondent Husak, proclaimed himself as an individual investor in the State of Michigan.
3. Respondent Husak is not a registered investment advisor in the State of Michigan.

4. Respondent Husak is not a registered securities agent in the State of Michigan.
5. Respondent Husak is not a registered broker-dealer in the State of Michigan.
6. At all pertinent times, Respondent Husak was a Michigan resident and formerly located at 3771 Bayberry Circle, Wixom MI 48393. Currently, Respondent is located at 45773 Lakeview Ct., Apt. 18207, Novi, MI 48377.
7. OFIS is responsible for the licensing and regulation of securities and enforcement of the provisions of the Michigan Uniform Securities Act of 1964, as amended, MCL 451.501 et. seq.
8. On January 3, 2006, via certified mail, OFIS sent a letter to the Respondent Husak requesting certain information about Husak's business.
9. Respondent Husak responded on January 27, 2006, stating that as an independent investor, Husak, buys and sells different stocks and because the investment amount needs to be more than Husak has personally, he encourages others to invest.
10. Specifically, in exchange for an investment, Respondent Husak offers promissory notes, unregistered, non-exempt securities.
11. Section 401(z) of the Act, MCL 451.801(z) includes as a "security" any "contractual or quasi contractual arrangement pursuant to which:
 - a. A person furnished capital, other than services, to an issuer;
 - b. A portion of that capital is subjected to the risks of the issuer's enterprise;
 - c. The furnishing of that capital is induced by the representations of an issuer, promoter, or their affiliates which give rise to a reasonable understanding that a valuable tangible benefit will accrue to the person furnishing the capital as a result of the operation of the enterprise;
 - d. The person furnishing the capital does not intend to be actively involved in the management of the enterprise in a meaningful way; and
 - e. A promoter or its affiliates anticipate, at the time the capital is furnished, that financial gain may be realized as a result thereof."
12. Respondent Husak's promissory note entitled: "10 to 15% Return Every Six Month Agreement" meets the above referenced requirements.
13. The securities offered by Respondent Husak are not registered nor are they exempt from registration under the Act.

14. Respondent Husak knew or had reason to know that Section 301 of the Act, MCL 451.701, makes it unlawful for a person to offer or sell any security in the State of Michigan unless it is:
 - a) Registered under the Act,
 - b) An exempt securities transaction under Section 402 of the Act, or
 - c) Is a federally covered security.
15. Respondent Husak further knew or had reason to know that Section 401(z) of the Act, MCL 451.801(z) defines a "security" which includes an investment contract.

WHEREAS, Respondent Husak, offered and sold unregistered securities, i.e., promissory notes; and

WHEREAS, an investment contract is a security as defined in Section 401(z) of the Act, MCL 451.801(z); and

WHEREAS, Respondent, Husak was engaged in the business of effecting transactions in securities in Michigan as an independent investor without being registered; and

WHEREAS, Respondent, Husak, is not registered as a securities agent; and

WHEREAS, Respondent, Husak, is not registered as an investment advisor; and

WHEREAS, Respondent, Husak, is not a registered broker-dealer in the State of Michigan; and

WHEREAS, Section 301 of the Act, MCL 451.701 of the Act provides that it is unlawful for any person to offer or sell any security in Michigan unless the security is: registered under the Act, the security or transaction is exempt under Section 402 of the Act, MCL 451.802, or the security is a federally covered security; and

WHEREAS, the above referenced promissory notes offered and sold by the Respondent do not meet any of the requirements listed in Section 301 of the Act, MCL 451.701; and

WHEREAS, Respondent Husak offered and sold unregistered securities in the State of Michigan in violation of Section 301 of the Act, MCL 451.701; and

WHEREAS, Respondent Husak has violated Section 301 of the Act, 451.701; and

WHEREAS, based on the foregoing, OFIS Staff recommends that the Commissioner find that Respondent Husak is engaged in acts and practices that violate Section 301 of the Act, MCL 451.701, and Rule promulgated under the Act; and

WHEREAS, the Office of Financial and Insurance Services finds this Order necessary and appropriate in the public interest, for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act; and

IT IS THEREFORE ORDERED, pursuant to Section 408 of the Act, MCL 451.808 and Section 409 of the Act, MCL 451.809, that:

1. Respondent Husak shall immediately **CEASE AND DESIST** from violating Section 301 of the Act, MCL 451.701.
2. Failure to comply with this ORDER will subject you to one or more of the following:
 - (a) A civil penalty of not more than \$1,000 for each violation of this Act, but not to exceed a total of \$10,000.
 - (b) A criminal penalty of not more than \$25,000 for each violation, or imprisonment of not more than 10 years, or both.

You may file with the Administrator within 15 days after service of this Order a written request for a hearing. The Administrator, within 15 days after your filing, shall issue a notice of hearing and set a date for the hearing. Any request for a hearing should be addressed to: the Office of Financial and Insurance Services, Attention: Hearing Coordinator Dawn Kobus, P.O. Box 30220, Lansing, Michigan 48909.


If you do not request a hearing, or it is not ordered by the Administrator within 15 days, this Order will stand as entered and will be FINAL.

It is important to understand that any statements that you present in response to this Order may be used against you at a hearing. It is also important to understand that you have the right, at your own expense, to have an attorney assist you at a hearing.

Any other communication regarding this Order should be addressed to the Office of Financial and Insurance Services, Attention: William R. Peattie, P.O. Box 30220, Lansing, Michigan 48909.

MICHIGAN DEPARTMENT OF
LABOR & ECONOMIC GROWTH

Dated: 12-05-06

By: 
Richard D. Lavolette
Chief Deputy Commissioner
Office of Financial and Insurance Services